

FEB 20 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

SECURITY RESOURCES
DEVELOPMENT CORPORATION;
ROBERT WEINBACH,

Plaintiffs - Appellants,

v.

CITY OF LOS ANGELES,

Defendant - Appellee.

No. 06-55562

D.C. No. CV-05-00704-FMC

MEMORANDUM *

Appeal from the United States District Court
for the Central District of California
Florence Marie Cooper, District Judge, Presiding

Submitted February 15, 2008 **
Pasadena, California

Before: TROTT, CLIFTON, and CALLAHAN, Circuit Judges.

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

Appellants Robert Weinbach and his company, Security Resources Development Corporation, appeal the district court's decision to grant summary judgment to the City of Los Angeles ("City").

We review de novo a district court's decision to grant summary judgment. Qwest Commc'ns Inc. v. City of Berkeley, 433 F.3d 1253, 1256 (9th Cir. 2006). On review, we must determine, viewing the evidence in the light most favorable to the nonmoving party, whether there are any genuine issues of material fact and whether the district court correctly applied the relevant substantive law. Olsen v. Idaho State Bd. of Med., 363 F.3d 916, 922 (9th Cir. 2004).

Where a substantive due process claim or an equal protection claim is not based on a suspect classification and where a fundamental right is not implicated, the government acts unconstitutionally only where its conduct is irrational, arbitrary, or malicious. Nelson v. City of Irvine, 143 F.3d 1196, 1205 (9th Cir. 1998) (equal protection); P.B. v. Koch, 96 F.3d 1298, 1302-03 (9th Cir. 1996) (substantive due process).

We agree with the district court. Weinbach failed to raise any genuine issues of material fact as to whether the City or its officials acted irrationally, arbitrarily, or maliciously.

AFFIRMED.